



LEGALITY OF SPORTS INJURIES

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ABSTRACT

Sports become integral part of each and every one's life. If we talk about cricket, football, tennis, etc. only then it will be injustice to the other sports activity. People belong to individual athletic events, group games and duo players are also covered under it. Injuries occurs during sports practice, training or competition are covered under insurance of personal injuries, but where there are institution which doesn't have proper insurance scheme or trained coaches are lacking in many ways. Professional teams have their own insurance schemes that cover their team members. But what about the persons who are playing at city or district level? They only cover under the Life insurance for permanent injuries compensation laws only.

Before few years, there is no such requirement as people don't choose sports as their profession. But, looking into current scenario of India, Law should be framed for the betterment of the athletes. A parents of a kid in today's generation wants their child to prefer at least one sport activity for the physical growth as well as mental wellbeing. Here, there is lacking of government schemes for child injury, liability of institution, personal liability of coach, etc. Here, we are lacking behind to protect our very own kids who will be athlete in future.

KEYWORDS: UKHL – United Kingdom's House of Lords, BCCI – Board of Control for Cricket in India

INTRODUCTION

Human body is created by the God. But, to save the life of someone is in hands of Doctors but with some extent only. Some injuries are irrecoverable. If such injuries occurs to any sports person, the only option with him is to quit his favorite activity or source of earning i.e. Sports.

"Sports" this word is now attached with life of each and every one. Even School going children participated in any of the sports by their choices or by the scenario of the society. Sports are now considered as part of fitness, physical activeness and also as well-known career option. So, parents are now more active to make their children to participate in individual or group sports, and also science proved that participation in sports activity develop mental and physical health of children as well. But, the recent issues comes out in this sports' scenario is injuries occurs during sports. There is no specific provisions related to injuries occurs during sports activities. School going children often face the injuries, because of poor playing facility, less awareness, lack of proper training and less safety measures in their schools and academy. There is lack of specific Law or Rules in India only applicable to injuries occurs during sports' activity.

There are number of types of sports injuries such as ankle sprain, concussion, cuts and abrasions, dental damages, knee joint injuries, noise injuries, stress fractures, etc. Sports injuries can be defined in various ways. But, basically sports injuries defined in two ways, first injury during sports activity and second injury during exercise for sports activity. In foreign

country, kinds of injuries defined for the compensation amount but in India kinds of injuries defined to decide whether child should continue playing such sports or not. Because of our compensation criteria which is limited to specific injuries and specific persons only. No school children are cover under or getting compensation under any sports injury insurance.

Sports is now become global phenomena. Every Sports federation has their own law, rules and regulations which is applicable on respected sports events and activities. There is no specific meaning or definition of Sports law exist. According to Sports law and welfare association of India, "Sports law is one of those fields of law that is applied law in the field of sports, physical education and its related field. It is a pure law as opposed to theoretical law and is concerned with how law in general interacts with the activity known as sports.

Earlier Sports injury is defined as Civil i.e. violation of right or Criminal i.e. violation of rules. In cases of civil wrong compensation is available as remedy to injured person. And in cases of criminal wrong punishment or banned from specific sports is available as right of injured person. But, in modern era sports injury is not limited to physical health and of sports person, but it's extended to mental health and reputation of sports person as well as person who is attached to sports fraternity. As common man Criminal activity is punishable through Indian Penal Code, 1956. But, civil remedy is available under Law of Torts for sports injury. Sports injury covered under the Personal Injuries (compensation insurance) Act, 1963. Other than this many more laws are directly and indirectly attached with

sports, which specified liability of institution, liability of coach, liability of athlete himself, liability of venue owner of sports activity held up, etc.¹

“Games might be and are the serious business of life to many people. It would be extraordinary to say that people could not recover from injuries sustained in the business of life, whether that was football, or motor racing, or any other of those pursuits which are instinctively classed as games but which everyone knew quite well to be serious business transactions for the persons engaged therein.”²

Kinds of Sports Injuries:

There are some of the common sports injuries which is as under,

1. Muscle pulls

Causes: Muscle pulls are very common and can happen to any athlete. Small tears occur within that lead to a strain when muscle is stretched too far or exceeds its tensile load. Inadequate warm up exercises, muscle fatigue, lack of flexibility, and muscle weakness can cause all kinds of athletes to pull a muscle.

Athletes affected by Muscle pull: Alexandra Stevenson, Rafael Nadal

2. Shin Splints

Causes: “Shin splints” is a generic term for shin pain (usually on the inside of the shin) but is correctly termed ‘Medial Tibial Stress syndrome or MTTS. It is mostly caused by inflammation of the muscles and their attachments to the shin bone (Tibia) Shin splints may occur when the intensity of working out is increased from normal level, wearing worn-out shoes or by jumping or running on hard ground. Normally has a biomechanical-trigger.

Athletes affected by Shin Splints: Monica Seles, Grant Hill, James Kirtley

3. Lower Back Pain

Causes: Usually lower-back-pain affects runners, cyclists, golfers, tennis, and baseball players. Bulging discs, back spasms, stress fractures sciatica are some types of lower-back pain. Improper training techniques, weakness (especially of the core muscles) and poor preparation is the most common reason for sports-related back pain. A slightest discrepancy in leg length can also cause back pain in runners as well as poor lower limb biomechanics or inadequate-footwear.

Athletes affected by Lower-Back-Pain: Andre Agassi, John Terry

4. Shoulder impingement

Causes: Any sport that involves a lot of overhead movement may result in shoulder impingement. Shoulder injuries are most common in tennis, swimming, weightlifting, baseball, and volleyball. They are mainly caused due to overuse of the shoulder, which can strain the rotator cuff. Usually comes about because of poor shoulder and scapular muscle

control which therefore puts excessive pressure onto the shoulder joint and its associated supporting tendons (the-rotator-cuff).

Athletes affected by Shoulder Impingement: Roger Federer, Maria Sharapova, Andy Roddick.

5. Runner’s knee

Causes: Knee injuries comprise about 55 per cent of all sports injuries. Not only runners, but it can strike any athlete like a cyclist, footballer, volleyball players, and others. It is often caused by weak quadriceps, tightness of some other related muscle groups, imbalances around the knee, poor pelvic control incorrect or worn shoes, and overtraining.

Athletes affected by Runner’s knee: Serena Williams, Danielle Slaton, Pavel Bure

6. Tennis Elbow

Causes: One develops a tennis elbow when the forearm is overused by repetitive movements in sports like Tennis, Golf and Badminton. These are the muscles that pull the wrist back. The tendons of the forearm that insert into the side of the elbow region tend to inflame that result in acute pain.

Athletes affected by Tennis Elbow: Sachin Tendulkar

7. Achilles Tendonopathy

Causes: Achilles Tendonopathy is a very common injury among runners and people involved in sports that require a lot of jumping. This is an inflammation of the Achilles tendon which is the attachment of the calf muscle to the heel bone The Achilles tendon, is a very strong tendon one but not very flexible and hence prone to micro-tearing which results in inflammation. Poor foot biomechanics also a major contributor and incorrect footwear.

Athletes affected by Achilles Tendonitis: Shaquille O’Neal

8. Ankle Sprain

Causes: When the foot accidentally turns inwards, it stretches and tears the ligaments on the outside of the ankle. Ankle sprains are almost inevitable in sports that involve specific foot movements such jumping, turning quickly and running.

Athletes affected by Ankle Sprain: Tillakaratne Dilshan, Serena Williams

9. Concussion

Causes: A concussion essentially means an injury (swelling) to the brain as a result of a blow to the head. It is most common in sports that involve sudden contact such as football, boxing, hockey and soccer. Multiple concussions may cause permanent damage to the brain. When a player has taken a blow to the head, always make a mistake on the side of caution.

Athletes affected by Concussion: Steve Young

10. Groin Strain

Causes: Due to excessive running or jumping in sports like soccer, hockey, basketball, volleyball and even racket sports, the muscles situated in the upper thigh area that serve to pull the legs together tend to get strained. Often as a result of overuse or a sudden slip and strain by overstretching the muscle

Athletes affected by Groin Strain: Chris Gayle, Simon Jones³

The inherent nature of sports convinces the participants to pursue excellence in their mission to reach the top. However, one of the major challenges faced by the athlete in such a target is injuries. Injuries in sports mostly result from the risks originally to the sporting activity; however, occasionally they are a consequence of the failure of other parties too, who are a primary part of the sporting activity to observe a reasonable duty of care towards the players such as co-participants, coaches, match officials, organizers of the event etc.

Liability of organizer:

Under the law of torts, liabilities to the organizer in the event of an injury to a sports person are following:

1. The sporting organization owed a duty of care towards the participant;
2. Such an organization breached the reasonable duty of care may liable to compensate the injured sports person; and
3. The injury sustained by the participant was a result of such breach of duty than he is liable to claim reasonable amount of compensation.
4. The sporting organization cannot transfer their liabilities on coaches or players in case of negligence.
5. The sporting organization if fails to guard against dangers is liable to pay injured sports person.

Case laws:

There have been numerous decisions which focus on the duty of care owed by the officials and event organizers towards participating sports persons. It was held that the occupiers of the sporting facilities owe a duty of care to all those on the premises to guard them against dangers.⁴

Litigation with regards to liabilities attached to organizers of sports events is virtually non-existent in India. However, the law of negligence, which is based primarily on the 'neighborhood test' that was laid down in *Donoghue v. Stevenson* ([1932] UKHL 100) helps in effecting some form of responsibility on the organizers and promoters of events to ensure the safety of spectators and participants.

The duty of venue owners to provide a safe environment to spectators/viewers was laid down by the High Court of Delhi, the negligence of the venue owners of the cinema hall resulted in a stampede which caused 69 fatalities by asphyxiation. It was held that the venue owners were duty bound in the interest of the society to provide safe environment to spectators or

viewers. The crux of the matter rested upon the contention by spectators/viewers that survived the tragedy alleging that the incident could have been avoided had the owner of the venue taken certain necessary precautions.⁵

The Supreme Court of India's decision is best remembered for its exclusion of the BCCI from the ambit of Article 12 of the Constitution of India. However, the Supreme Court of India also observed that while the BCCI is an autonomous body, laid down that the BCCI is responsible for rule making so as to mitigate injuries to players and promote safety in general, "The Board which represents a nation with or without a statutory flavor has duties to perform towards the players, coaches, umpires, administrators and other team officials. They have a duty to create safe rules for the sport, if by reason thereof a physical injury to the player is to be avoided and to keep safety aspect under ongoing review."⁶ This judgment clearly establishes the principle that the governing body for a sport is ultimately responsible for prudent exercise of its rule making ability. The judgment has opened up the prospect of liability being attached to the organizers or promoters of sporting events in the case of an injury to a player or a spectator in such events, especially if such injury is attributable to negligence or omission in rule making.⁷

Legality in India:

What we talk about is upper level i.e. state or national level or international level sports activities and games. But, what about lower level sports activities? Is school going or college going sports person covered under tort or negligence of organizer? The answer is "No". There is no specific provisions related to school going child and injury occurred during school sports activity. Autonomous body like sports welfare association and quasi-judicial body like universities, sports academy, etc. have their rules and regulation. But, what about injury occurs during inter school events or sports week of school/ college? In such case, there are no specific rules and regulations applicable and in many cases not even organizer is liable to pay under any of the Law.

Looking to the scenario, many insurance companies like max life insurance, Bajaj Fiserv, etc. offers Sports Fitness Injury Insurance. Which covers every injury occurs during sports activity other than self- inflicted injuries. But, another question arise, that is it possible for every person or every parents to buy such private insurance for the sports activity of their children. And at what level and what extent it is necessary. A school going child participate in school sports activity and get injured by that activity should think before playing to get insurance for this regular or compulsory activity of school. So, such type of insurance is only helpful to the children who want to make sports as their career or athlete whose life is all sum-up of sports activity. The Question is still remain same that, school/ college going kids are protected under law or not?

The simple Law defined that person who is injured or his right is injured must be getting remedy under the Law in India. But, there are some corners which is still left from the protection of Law and Legal rights. Even the justice delivery system is also

very slow in India. If the Child or their parents want to claim compensation from School/ organizers/ owners, they have to file suit, and looking at the situation of Indian justice system, case will be run for many years and also the expenses of court procedure and fees of advocate would become more than compensation amount. So, no one is interested in filling case for injury occurs during sports activity in school or college level.

There must be some sort of Rules and Regulations which is applicable on all kind of sports activities (includes all games whether national level or district level) and on all the organizers (includes schools and colleges intra or extra sports events). And such injury claims should be run in fast track court or specific tribunals for quick recovery or reimbursements.

CONCLUSION:

It is simple, if one wants to promote “खेलेगा इंडिया तभी तो बढ़ेगा इंडिया”, you should protect each and every child, sports persons, etc. from minor to major sports injuries. Otherwise, like few sports, it will become game of rich people only who afford high fees of institution/coach, high amount of equipment and expensive medical facility for injury or high rated premium charges of sports injury insurance.

REFERENCES

1. <http://www.legalservicesindia.com/article/917/Sports-&-Torts:-Legal-Liability-in-Professional-Athletics.html>
2. Cleghorn v Oldham (1927) 43 TLR 465
3. <https://timesofindia.indiatimes.com/life-style/health-fitness/fitness/Top-10-common-sports-injuries/articleshow/14318459.cms>
4. Francis v. Cockrell (1870) L.R 5 Q.B 501, 515
5. Association of Victims of Uphaar Tragedy v Union of India (2003 ACJ 1631)
6. M/S Zee Telefilms Ltd. & Anr v. Union Of India & Ors Writ Petition ([2005] 4 SCC 649)
7. <https://sportslaw.in/home/2012/06/22/a-comparative-view-of-organizers-liability-for-player-injuries/>